

## **Chapter 17.64**

### **UNDERGROUNDING OF UTILITIES**

(2222-12/77, 2382-7/79, 2975-12/88, 3635-5/04, 3783-10/07)

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**17.64.010 Definitions.** The following terms or phrases as used in this chapter shall, unless the context indicates otherwise, have the respective meanings herein set forth:

- (a) "Commission" shall mean the Public Utilities Commission of the state of California.
- (b) "Underground utility district" or "district" shall mean that area in the city within which poles, overhead wires and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provision of section 17.64.110 of this chapter.
- (c) "Poles, overhead wires and associated overhead structures; shall mean poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located aboveground within a district and used, or useful, in supplying electric, communication or similar or associated service.
- (d) "Utility" shall include all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices. (2222-12/77)

**17.64.020 Underground utilities coordinating committee--Established.** There is hereby established an underground utilities coordinating committee, appointed by the City Council, which said committee shall consist of five (5) members as follows: (2222-12/77, 2382-7/79, 2975-12/88)

- (a) Director of Public Works;
- (b) Director of Planning; (3783-10/07)
- (c) One city employee appointed by the City Administrator;
- (d) District representative, Southern California Edison Company; and
- (e) Senior engineer, Public Improvements, Verizon. (3783-10/07)

**17.64.030 Duties.** It shall be the duty of the committee to advise the City Council with respect to all technical aspects of the undergrounding of public utilities within the city of Huntington Beach and in that regard the committee shall:

- (a) Determine the location and priority of conversion work within the city;
- (b) Recommend specific projects and methods of financing;
- (c) Recommend time limitation for completion of projects and extensions of time;
- (d) Develop a long-range plan for establishing underground utilities districts;
- (e) Perform such other duties as may be assigned to it by the City Council.

The Director of Public Works shall be chairperson of said committee. A majority of the members of the committee, or their authorized representatives, present at any meeting shall constitute a quorum. Said committee shall meet upon call of the chairperson. Members of the committee shall serve at the pleasure of the City Council and without compensation. (2222-12/77, 3783-10/07)

**17.64.040 Planning Commission review.** Prior to submitting reports to the City Council, the committee shall submit all undergrounding plans to the Planning Commission in order to ascertain its recommendations with respect to comprehensive planning for the city, and the effect of such proposed undergrounding plans thereon. (2222-12/77)

**17.64.050 Underground public utilities facilities.** All new public and private utility lines and distribution facilities, including but not limited to electric, communications, street lighting, and cable television lines, shall be installed underground, except that surface-mounted transformers, pedestal-mounted terminal boxes, meter cabinets, concealed ducts in an underground system and other equipment appurtenant to underground facilities located on private property or installed pursuant to a franchise or other agreement need not be installed underground, and provided further that cable television lines may be installed on existing utility poles within subdivisions developed with overhead utility lines. (3783-10/07)

This section shall not apply to main feeder lines or transmission lines located within the public right-of-way of an arterial highway as shown in the circulation element of the general plan. (2222-12/77)

**17.64.060 Overhead installation.** Installation of overhead utility lines is permitted for the following:

- (a) Relocation and/or the increase of the size of service on a lot when it does not necessitate any increase in the number of existing overhead lines and/or utility poles;
- (b) Any new service when utility poles exist along abutting property lines prior to February 15, 1967, and which are not separated by any alley or public right-of-way and no additional utility poles are required;
- (c) Temporary uses, including directional signs, temporary stands, construction poles, water pumps, and similar uses;
- (d) Oil well services. (2222-12/77)

**17.64.070 Conversion of overhead utilities.** Any new overhead service which is permitted by these provisions shall have installed a service panel to facilitate conversion to underground utilities at a future date. (2222-12/77)

**17.64.080 Underground trenches.** All underground utility lines in residential developments which are installed on private property shall be located along lot lines. However, the trench for service lines may curve from the lot line to the building at the nearest, most practical location.

This provision is intended to reduce conflicts which may occur in future construction because of existing underground utility lines. (2222-12/77)

**17.64.090 Public hearing by Council.** The Council may from time to time call public hearings to ascertain whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures within designated areas of the city and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service. Prior to holding such public hearing, the City Engineer shall consult with all affected utilities and shall prepare a report for submission at such hearing, containing, among other information, the extent of such utilities participation and estimates of the total costs to the city and affected property owners. Such report shall also contain an estimate of the time required to complete such underground installation and removal of overhead facilities. The City Clerk shall notify all affected property owners as shown on the last equalized assessment roll and utilities concerned by mail of the time and place of such hearings at least ten (10) days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing all persons affected shall be given an opportunity to be heard. The decision of the Council shall be final and conclusive. (2222-12/77)

**17.64.100 Council may designate underground utility districts by resolution.** If, after any such public hearing the Council finds that the public necessity, health, safety or welfare requires such removal and such underground installation within a designated area, the Council shall, by resolution adopted by affirmative vote of at least five (5) members of the City Council, declare such designated area an underground utility district and order such removal and underground installation. Such resolution shall include a description of the area comprising such district, the reason for placing public utilities underground (see Public Utilities Commission Rule 20), and shall fix the time within which such affected property owners must be ready to receive underground service. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of labor, materials and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby. (2222-12/77)

**17.64.110 Unlawful to erect or maintain overhead utilities within district.** Whenever the Council creates an underground utility district and orders the removal of poles, overhead wires and associated structures therein, as provided in section 17.64.100 hereof, it shall be unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead wires and associated overhead structures in the district after the date when said overhead facilities are required to be removed by such resolution, except as said overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in section 17.64.200 hereof, and for such reasonable time as may be required to remove said facilities after said work has been performed, and except as otherwise provided in this chapter. (2222-12/77)

**17.64.120 Exceptions--Emergency or unusual circumstance declared exception.** Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period not to exceed ten (10) days without authority of the Council in order to provide emergency service. In such case, the Director of Public Works shall be notified in writing prior to the installation of the facilities. The Council may grant special permission on

such terms as the Council may deem appropriate in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles overhead wires and associated overhead structures. (2222-12/77)

**17.64.130 Exceptions to this chapter.** The following shall be excluded from the provisions of this chapter unless otherwise provided in the resolution designating the underground utilities district:

- (a) Poles or electroliers used exclusively for street lighting.
- (b) Overhead wires (exclusive of supporting structures) crossing any portion of a district within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a district, when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited.
- (c) Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts.
- (d) Any municipal facilities or equipment installed under the supervision and to the satisfaction of the City Engineer.
- (e) Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street.
- (f) Antennas used by a utility for furnishing communication services. (3783-10/07)
- (g) Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and water cabinets and concealed ducts.
- (h) Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects. (2222-12/77)
- (i) Utilities with existing on-pole services as of the date of this ordinance, where the utility is not the sole user of the poles, and where the utility is replacing one single wire, cable, or line with another or adding an additional smaller wire, cable or line, provided that utility will be placed underground at the time the other utility utilizing the poles places its service underground. (3635-5/04)

**17.64.135 Lines not in use – notice to City.** At any time a line, cable or wire is taken out of service, or abandoned or is otherwise no longer used, the utility shall give notice of non-use to the City. Within six (6) months of the time upon which the line, cable or wire ceases to be used (the notice date) the utility shall remove the line, cable or wire from the poles. (3635-5/04)

**17.64.140 Community antenna television service.** Distribution lines and individual service lines for community antenna television (CATV) service shall be installed underground in all new developments within the city. All new CATV installations in said new developments shall be made in accordance with specifications adopted by City Council resolution. Said improvements within the public right-of-way, upon completion, shall be dedicated to the city of Huntington Beach. (2222-12/77)

**17.64.150 Director of Public Works--Authority of.** The Director of Public Works shall have the authority to waive the requirements of section 17.64.140 with respect to improvements within the public right-of-way when, in his or her judgment, it is determined to be in the best interest of the city so to do, based upon the following criteria: (3783-10/07)

- (a) Whenever engineering plans and specifications are not required.
- (b) Where existing improvements such as curbs and gutters, sidewalks, streets, etc. would have to be removed and replaced.
- (c) The location of existing overhead facilities.
- (d) The location of existing structures.
- (e) The condition of existing street improvements.
- (f) The amount of lineal footage of CATV facilities involved. (2222-12/77)

**17.64.160 Director of Planning--Authority of.** The Director of Planning shall have the authority to waive the on-site requirements, as set out in section 17.64.140, when, in his or her judgment, it is determined to be in the best interest of the city so to do, based upon the following criteria: (2975-12/88, 3783-10/07)

- (a) Where existing improvements would have to be removed and replaced.
- (b) The location of existing overhead facilities.
- (c) The location of existing structures.
- (d) The condition of existing improvements.
- (e) The amount of lineal footage of CATV facilities involved.
- (f) The interface of the new development to the existing development on the site.
- (g) The interface to similar facilities required off site. (2222-12/77)

**17.64.170 City Council--Appeal to.** Any landowner or developer affected may appeal the determination of the Director of Public Works or the Director of Planning to the City Council. (2222-12/77, 3783-10/07)

**17.64.180 Notice to property owners and utility companies.** Within ten (10) days after the effective date of a resolution adopted pursuant to section 17.64.110 hereof, the City Clerk shall notify all affected utilities and all person owning real property within the district created by said resolution, of the adoption thereof. Said City Clerk shall further notify such affected property owners of the necessity that if they or any person occupying such property desire to continue to receive electric, communication or similar or associated service, they or such occupant shall provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location. (2222-12/77)

**17.64.190 Responsibility of utility companies.** If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to section 17.64.110 hereof, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations and tariffs on file with the commission. (2222-12/77)

**17.64.200 Responsibility of property owners.**

- (a) Every person owning, operating, leasing, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his property between the facilities referred to in section 17.64.190, and the termination facility on or

within said building or structure being served. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to section 17.64.110 hereof, the City Engineer shall give notice in writing to the owner thereof as shown on the last equalized assessment roll, to provide the required underground facilities within thirty (30) days after receipt of such notice.

- (b) The notice to provide the required underground facilities may be given either by personal service or by mail. In case of service by mail on either of such persons, the notice must be deposited in the United States mail in a sealed envelope with postage prepaid, addressed to the person in possession of such premises, and the notice must be addressed to such owner's last known address as the same appears on the last equalized assessment roll, and when no address appears, to General Delivery, city of Huntington Beach. If notice is given by mail, such notice shall be deemed to have been received by the person to whom it has been sent within forty-eight (48) hours after the mailing thereof. If notice is given by mail to either the owner or occupant of such premises, the City Engineer shall, within forty-eight (48) hours after the mailing thereof, cause a copy thereof, printed on a card not less than 8" x 10" in size, to be posted in a conspicuous place on said premises.
- (c) The notice given by the City Engineer to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if said work is not completed within thirty (30) days after receipt of such notice, the City Engineer will provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited and become a lien upon such property.
- (d) If upon the expiration of the thirty (30) days, the said required underground facilities have not been provided, the City Engineer shall forthwith proceed to do the work, provided, however, if such premises are unoccupied and no electric or communications services are being furnished thereto, the City Engineer shall in lieu of providing the required undergrounding facilities, have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to said property. Upon completion of the work by the City Engineer, he shall file a written report with the City Council setting forth the fact that the required underground facilities have been provided and the cost thereof, together with a legal description of the property against which such cost is to be assessed. The Council shall thereupon fix a time and place for hearing protests against the assessment of the cost of such work upon such premises, which said time shall not be less than ten (10) days thereafter.
- (e) The City Clerk shall forthwith, upon the time for hearing such protests having been fixed, give a notice in writing to the person in possession of such premises, and a notice in writing thereof to the owner thereof, in the manner hereinabove provided for the giving of the notice to provide the required underground facilities, of the time and place that the Council will pass upon such report and will hear protests against such assessment. Such notice shall also set forth the amount of the proposed assessment.
- (f) Upon the date and hour set for the hearing of protests, the Council shall hear and consider the report and all protests, if there be any, and then proceed to affirm, modify or reject the assessment.
- (g) If any assessment is not paid within fifteen (15) days after its confirmation by the Council, the amount of the assessment shall become a lien upon the property against which the assessment is made by the City Engineer, and the City Engineer is directed to turn over to the assessor and tax collector a notice of lien on each of said properties on which the assessment has not been paid, and said assessor and tax collector shall add the amount of said assessment to the next regular bill for taxes levied against the premises upon which said assessment was not paid. Said assessment shall be due and payable at the same time as said property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of 6 percent per annum. (2222-12/77)

**17.64.210 Responsibility of city.** City shall remove at its own expense all city-owned equipment from all poles required to be removed hereunder in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to section 17.64.110 hereof. (2222-12/77)

**17.64.220 Extension of time.** In the event that any act required by this chapter or by a resolution adopted pursuant to section 17.64.110 hereof cannot be performed within the time provided because of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience, or any other circumstances beyond the control of the actor, then the time within which such act will be accomplished shall be extended for a period equivalent to the time of such limitation. (2222-12/77)